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Raised Bill No. 5555
An Act Concerning Diversionary Programs
Judiciary Committee Public Hearing – March 29, 2012

The Office of Chief Public Defender supports passage of *Raised Bill No. 5555, An Act Concerning Diversionary Programs*. This bill makes important changes to diversionary programs.

Of greatest significance are the changes proposed in section 1 of the bill. This section makes needed changes to *C.G.S. §54-56i, Pre-Trial Drug Education Program, (DEP)*. The DEP was created in 1997 to provide a diversionary opportunity for persons charged with minor marijuana and drug paraphernalia possession offenses. When enacted, the DEP consisted of both a drug education component and a community service requirement. At the time of its creation, another drug related diversionary program – the *Community Service Labor Program C.G.S. §53a-39c, (CSLP)*, was already in existence and in wide use. The CSLP was created in 1990, and in its initial form called only for the completion of an amount of community service and did not include an education or treatment component. However, successful completion of the requirements of either program led to the same result - a dismissal, in most cases, of charges against a first time drug offender.

Over the years the co-existence of these two similar but distinct programs have, to some extent, created a duplicative diversionary scheme for those charged with minor possessory drug offenses. Eligibility criteria for each program have varied over the years. At one time use of one program precluded the use of the other. Currently, the DEP can be used only one time but must be used prior to the CSLP. The CSLP may be used twice but in only one case will lead to a dismissal of the charges. Other components of each program have also been altered over time, for example, the amount of community service required and the length and type of the educational and treatment components. The ongoing revisions have resulted in, among other things, confusion regarding the timing and proper use of each program. In some cases individuals have found themselves, inappropriately so, ineligible for one program or the other as a result.

The current bill creates a single, more coherent diversionary scheme for persons accused of possessory drug offenses. The restructured program created by this bill clarifies both

eligibility and program requirements. The educational, treatment and community service requirements are appropriately graduated and are structured in accordance with eligibility determinations made by CSSD and the treatment recommendations made by the Department of Mental Health and Addiction Services as a result of their evaluations. For these reasons the Office of Chief Public Defender supports the proposed changes.

Another important aspect of this bill is the expansion of mediation programs to each geographical area court. This Office's experience with such programs demonstrates that mediation of minor criminal cases is beneficial, not only to the defendants and the dispositions of their cases but also the criminal justice system in general. While in all cases the state's attorney retains the ultimate discretion regarding how to proceed in any particular matter, mediation programs can help divert appropriate cases from the regular docket preserving valuable court resources. It is also clear that participants who engage in the process are exposed to an alternative dispute resolution process that may benefit them in others settings in the future.

For the foregoing reasons this Office urges the Committee to vote favorably on Raised Bill 5555.